

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
SEP 13 1982

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code.

The information submitted discloses that you were incorporated on [REDACTED] as a nonprofit corporation under the statutes of the State of [REDACTED]. Your purpose, as stated in your Articles of Incorporation, is to produce and publish a professional magazine to serve the management consulting profession, as well as to accumulate a library which will become a growing repository of the formalized knowledge of the management consulting profession.

Your activities consist of producing and publishing a magazine to disseminate information among members of the management consulting profession, as well as others who have an interest in similar information. You intend to soon begin accumulating a storehouse or library of information important to or of general interest to the management consulting profession. Your organization is managed by a Board of Trustees consisting of [REDACTED] members who hold office for three years. Your Bylaws indicate that such trustees shall have professional qualification germane to the purposes of the corporation. A successor Board of Trustees is elected by the present Board of Trustees, according to the Bylaws.

Income of your organization will be derived from subscriptions and advertising, with an estimated "seed" contribution in the first year of [REDACTED], which you have indicated you do not expect to be duplicated at any time in the future. You have hired a professional editor who is paid, and you expect to spend about [REDACTED] of the monies received from subscriptions on advertising and promotion of the magazine next year [REDACTED]. You require individuals who contribute articles for publishing in your magazine to sign a "Contributor Agreement" which grants and assigns to your magazine all copyrights on the material. Your magazine allows such contributors of material the right to use the material in the future, providing the contributor of material includes the copyright notice of your magazine in any publication made.

Section 501(c)(3) of the Internal Revenue Code provides for the exemption of organizations which are organized and operated exclusively for religious, charitable, educational and scientific purposes, and no part of the earnings of which inures to the benefit of any individual.

Section 1.501(c)(3)-1(a) of the Income Tax Regulations states that an organization must be both organized and operated exclusively for one or more of the purposes specified in that section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c) of the Income Tax Regulations states that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of the exempt purposes specified in Section 501(c)(3).

In Foundation for Divine Meditation, Inc. v. Commissioner, T.C.Memo 1965-77. (affirmed sub. nom. M. E. Parker v. Commissioner, 365 F.2d 792 1966) the court held that a religious organization was not organized and operated exclusively for religious purposes where its publication and distribution of various religious materials constituted a substantial non-exempt activity because it was conducted in a commercial manner.

The manner in which your operation is carried on is not distinguishable from ordinary commercial publishing practices. You require contributors of articles to surrender all rights to copyright; you have hired a "professional" editor who is paid commensurate with services rendered; you will solicit subscriptions by spending approximately 10% of subscription income each year on promoting and advertising the magazine, according to estimates submitted by you; and you will always charge a rate for your magazine to cover all costs of publishing.

It is, therefore, held that you are not entitled to exemption from Federal income tax under the provisions of Section 501(c)(3) of the Internal Revenue Code, and your request for exempt status under that section is denied.

You are required to file income tax returns on Forms 1120.

If you do not agree with these conclusions, you may request Appeals Office consideration. To do this, you must submit to the District Director within 30 days from the date of this letter, a statement of facts, law, and arguments, in duplicate, which will clearly set forth your position. You also must state whether you wish an Appeals Office conference. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

On final determination, copies of this letter will be forwarded to appropriate State officials in accordance with Section 8104(e) of the Internal Revenue Code.

If we do not hear from you within the time specified, this communication will become our determination in the matter.

Very truly yours,

District Director

Enclosure:
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